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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,470	07/28/2003	William C. Allen	014861-600002	7300

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Jones Day
Blaney Harper, Esq.
51 Louisiana Avenue, N.W.
Washington, DC 20001-2113

EXAMINER

ROGERS, DAVID A

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,470

Applicant(s)

ALLEN ET AL.

Examiner

David A. Rogers

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 73 and 74 is/are allowed.
- 6) ☒ Claim(s) 23-72 is/are rejected.
- 7) ☒ Claim(s) 27-29, 47-50, 56-59 and 65-68 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20030728</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informality. The first paragraph on page 1 requires additional revision. The following is a recommendation for this paragraph:

This is a continuation of Application 10/224,719 filed August 21, 2002 and entitled "Interface Between a Piece of Baggage and a Preconcentrator", now United States Patent 6,651,520, which is related to Application 10/224,688 filed 21 August 2002 and entitled "Method of Analyzing the Constituents of Air Extracted from the Interior of a Piece of Baggage", now abandoned.

Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b). Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 30-45 are rejected under the judicially created doctrine of double patenting over claims 7, 8, 9, 11-17, 20, and 21 of co-pending application 10/224,719, now United States Patent 6,651,520 issued 25 November 2003. The claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows. In the pending claims the applicant recites an interface for a piece of baggage or an interface between a piece of baggage and a collector. The allowed claims are directed to an interface between a piece of baggage and a preconcentrator. The "means" for allowing the interfacing, in both cases, comprises the structural elements of an upper member, a lower member, a gap formed between the upper member and lower member, and a recess with a vent formed through the upper member and

the lower member. Both the pending claims and the allowed claims are directed to the same structural device.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

The applicant should refer to 35 U.S.C. 251 and MPEP §1400 (Reissue Applications) for guidance if the applicant seeks to claim the interface for a preconcentrator and/or a collector.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 23, 26-32, 46-50, 53, 55-59, 62, 64-68, and 71 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The applicant's disclosure requires the interface to be formed of a top member and a bottom member creating a gap therebetween, and a recess with a vent formed through the upper and lower members. Excluding all these features, critical or essential to the practice of the invention, but not included in the independent claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 23-26, 46, 51-55, 60-64, 69-72 are rejected under 35 U.S.C. 102(b) as being anticipated by the known prior art.

The known prior art teaches a two-part connector, as shown below, for securing in a hole in a generally planar region. The first member is a commonly available reduction fitting for plumbing, shown in figure 1 below. This bottom member comprises. Extending above the lip portion is an externally threaded surface. This bottom member has a recess and a through-hole, i.e. a vent. The second member is a commonly available lockring, shown below in figure 2. The lockring is internally-threaded with a plurality of radially-projecting flanges. As shown in figure 2, the flanges extend a) from the outer diameter of the generally circular lockring, and b) downward by a small amount relative to the generally horizontal surface of the lockring. In use the lockring is threaded onto the bottom member, as shown in figure 3. The downward-projecting flanges create a gap between the lip and the ring where the gap is narrower at one portion relative to another portion.

The threaded surface and lockring create a variable gap between the ring and the lip portion. The gap can be widened or narrowed depending on how much the lockring is threaded onto the bottom member. By using the lockring, the threaded surface, and the lip the connector can be releasably secured to hole in the generally planar region of variable thickness. See Camco's Plumbing and Hardware catalog, page 13, for an example.

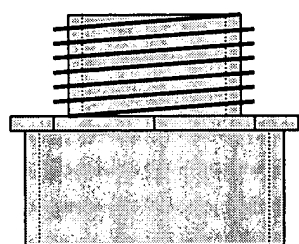
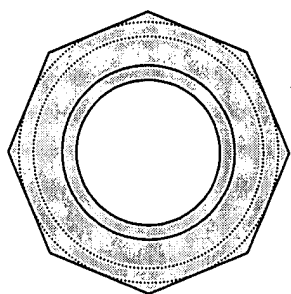


Figure 1



Figure 2

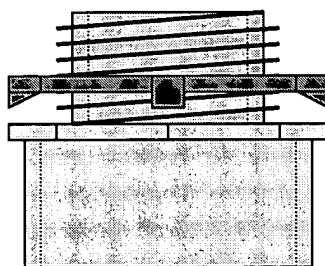


Figure 3

The known prior art has the inherent capability to be placed in the zipper region of a piece of baggage, has the inherent capability to grip the zippered surfaces, and has the inherent capability to receive a preconcentrator or a

collector due to is through-hole. An example of such an element can be found at many hardware stores. The applicant's is further directed to *In re Schreiber*, 128 F.3d 1473, 44 USPQ2d 1429 (Fed. Cir. 1997).

Allowable Subject Matter

8. Claims 73 and 74 are allowed.
9. Claims 27-29, 47-50, 56-59, and 65-68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, noting also the incorporation of the required elements into the independent claims as set forth in paragraph 6 above.

Conclusion


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Rogers whose telephone number is (571) 272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2856

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dar 
28 July 2004


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800